CHAPTER VII

KRIPALANI'S VIEWS ON DEMOCRATIC PHILOSOPHY AND INSTITUTIONS

Kripalani's democratic philosophy can be derived through his opposition to communism. His opposition to communism was direct and unambiguous. His rejection of communism was more fundamental than that of most other leaders of the Indian national movement.

Kripalani, a historian by training, rejected the economic interpretation of history, the theory of class struggle and the method of armed insurrection. He was a severe critic of the Soviet Union. He believed that the Russian revolution was not the product of economic determinism inherent in history but of the ravages of the First World War, the failure of the administrative machinery of the Tsarist government, and a variety of fortuitous events which proved the importance of the element of chance in history.

Kripalani was appalled by the methods and practices adopted by the communist movement. He said the communist movement,
"... brings out differences, accentuates and emphasizes them. It ignores whatever common sentiment and culture exist in ancient communities. With its belief in the efficiency of hate and violence to bring about a new and more equitable world order, it has managed to create warring groups in each country. Common points and common objectives are minimized and even ignored. Then it acts like a bad neighbour who, knowing the fundamental differences between the sexes, economic, social and intellectual, would emphasize them, and thus foment family quarrels, on the plea that the differences are not of his creation, but have always existed in the family." ¹

Kripalani observed that, even where people manage to live more or less peacefully, communism discovers for them what they have so far failed to discover, their fundamental and hard-to-bridge differences. The communist argument is that this is done to draw attention to injustice and wrong in the particular society and that this is the way to redress the balance.

Whereas a reformer employs methods of concord, peace and love,

to bring about a comprehensive change, the communist recommends and practices the methods of violence and class war. To Kripalani, the communist approach is ultimately self-defeating.

Kripalani was highly critical of the Soviet system of government and its intolerance of difference of opinion. While difference of opinion is tolerated in a democratic society, it is stamped out in the communist society. About the Soviet Union, Kripalani says,

"In Russia itself, what has been the result? Having destroyed its real or supposed enemy, the bourgeoisie, the revolution is swallowing up its own children, may, its own creators and progenitors. Today the war to the knife is not with opponents, but with those of the same faith. A bourgeois may escape the wrath of the Marxists, but not a fellow Marxist who differs ... It is just as it used to be under the medieval Christian Church. Orthodoxy is being prescribed by those who happen to be in power for the time being. Anybody who differs from them in the interpretation of the true doctrine is an apostate and a heretic, worthy of the torture and the stake ... The trials staged in recent years remind one of the methods of the Inquisition."
The last moment retractions and confessions bring to memory most vividly the Inquisition Courts ...

During his association with the Indian National Congress, Kripalani was strongly opposed to the idea of the Indian communists being allowed to work within the Congress. Kripalani argued that the Congress was based on the cooperation of all sections and interests of the nation. Its primary objective was the independence of India from foreign rule and not the elimination of one class by another. If the communists were allowed to function inside the Congress, they would inevitably attempt to capture the organisation and, if they were successful, the country would be faced with the danger of a civil war. The very purpose of the foundation of the Congress as well as the struggle for freedom would, thus, be undermined.

The ideology behind the rejection of the communist methods, whether in the Soviet Union or in India, was that bad means could never be justified by ostensibly noble ends. Kripalani was a strong advocate of the Gandhian theory of the noble end requiring

2. Ibid., pp.96-97.

Kripalani argued that, apart from any philosophical or moral problems, the realities of the Indian situation demanded a cooperative rather than a divisive approach. Both by tradition and by necessity the Indian freedom struggle was based on the principle of unity in diversity, and no one could serve the cause of India's freedom without accepting this basic fact. 5

Kripalani, an ardent supporter of Gandhiji, was a committed believer in non-violence, class cooperation, and decentralisation of power, both political and economic. 6

Kripalani found no truth in the slogans like "The Proletariat of all countries unite" or "The poor have nothing to lose but their chains." He held that these slogans have been proved false in every war involving a communist country. Kripalani wrote:

"In the last World War, the proletariat of Germany, Japan and Italy did not feel that their

interests were identical with those of the Russian proletariat. When Russia, after the last World War, wanted to put Yugoslavia behind 'the Iron Curtain,' the proletariat of the latter country successfully resisted the attempt. The unity of the proletariat of different communist countries has again been falsified recently by the border clashes between Communist Russia and Communist China.7

Above we have discussed Kripalani's attitudes and ideas regarding the philosophy and practice of the communists. Now we take up a brief analysis of his position and views on the various fundamental rights which constitute a strong basis of the democratic philosophy and institutions everywhere.

Kripalani has rightly criticised the two amendments to the constitution, 24th and 25th, which were passed by a brute majority of the Congress party in 1972.

The 24th amendment was passed to make the parliament competent to alter, abridge or take away any of the fundamental rights of the citizen of India guaranteed in the constitution by a simple amendment under article 368 which lays down the

procedure by which possible amendments can be made.

Following the 24th amendment the next amendment, 25th was passed. This amendment has greatly affected article 31(2).

The amendment provides that a citizen's property may be taken away by the state on payment of an 'amount' in place of 'compensation' (as required in the original article 31(2)). Though the change seems to be minor, it has seriously affected citizens' property rights. Kripalani has paid careful attention to this aspect. He says,

"The word 'compensation' means just compensation, as decided upon by law courts. The 'amount' payable for property acquired by the state is now no more subject to the scrutiny of the law courts, whether it is just and adequate or not. Under this amendment, the 'amount' payable by the state may be given in any shape or form, in cash or bonds, redeemable after any period of time. The amount payable may be only nominal or notional, but the owner will not be able to question it in a court of law. The amount payable, in effect, may mean the confiscation of the private property of the citizen, no matter how small it is. This was never the intention of the framers of the constitution."

Kripalani feared that the 25th amendment would adversely affect some other fundamental rights too. For example:

1. Freedom to carry on industry and commerce in any part of India may be adversely affected if proper compensation is not paid to the owner when he desires to change his place of operations.

2. The amendment may also affect the freedom of the press. If a newspaper wants to shift from one place to another, and its premises are taken over by the government, the owner may get nominal compensation. This can cause a considerable loss to the owner and he may think against shifting or continuing the paper.9

Kripalani was not in agreement with the arguments put forward by the Congress government regarding the 24th and 25th amendments. The official argument was that the amendments were moved under article 368 of the constitution. Kripalani made it clear that article 368 merely laid down the procedure of moving amendments to the constitution; it did not allow the weakening

or destruction of the constitution. Kripalani said that article 15(2) had laid down that "... the state shall not make any law which takes away or abridges the rights conferred by this Part (III) and any law made in contravention of this clause shall, to the extent of the contravention, be void."\(^{10}\)

Kripalani asked whether articles 368 was all-pervasive and whether under it any and every amendment could be brought and passed provided the requisite majority was available.\(^{11}\) He was afraid this was not the case; the article was not all-pervasive. He said, "... if that were so, any legislature or rather the government of the day commanding the requisite majority may by an amendment under article 368 change or modify the Preamble to the constitution, declaring it as part of the constitution.\(^{12}\) At this rate, he continued, "It may even alter or annihilate itself. All this would be absurd."\(^{13}\)

According to Kripalani, "Article 368 is not all-pervasive as revealed by its own proviso, that certain changes in the

\(^{10}\) Ibid., p.16.
\(^{11}\) Ibid.
\(^{12}\) Ibid.
\(^{13}\) Ibid.
powers of the states cannot be made without the agreement of half the number of states.\textsuperscript{14} Kripalani strongly pleaded that there should be a reasonable, inherent and implied limitation while applying article 368, even if the requisite majority is available in the legislature.\textsuperscript{15}

Kripalani took the view that "... an amendment is not a fundamental or basic alteration of the original statute, act or proposition. It is only, as the word indicates, an 'amendment.' It can only explain, enlarge or complete an idea stated in the original proposition. It cannot negate or take away the essential idea behind the original proposition."\textsuperscript{16} He was firmly of the opinion that the 24th and 25th amendments alter the basic nature and structure of not only articles 13 and 31 but also of some other articles of the constitution.\textsuperscript{17}

Kripalani points out that the founding fathers of the constitution were not quite sure that an average human being would always follow the right and the reasonable course of action

\begin{itemize}
\item \textsuperscript{14} Ibid.
\item \textsuperscript{15} Ibid.
\item \textsuperscript{16} Ibid.
\item \textsuperscript{17} Ibid.
\end{itemize}
as regards the rights and interests of his fellow men. This is why the various fundamental rights were specifically provided in the constitution and these were kept beyond the possible interferences of the average men and women.  

According to Kripalani, the fundamental rights provided in the Indian constitution follow the pattern of the "Charter of Freedom" of the United Nations to which India is a signatory. He reminds us that "... it is for this freedom that our pre-independence patriots fought and made great sacrifices. Some of them had to pay with their lives for securing freedom. It was not only for national liberty that they fought but also for the liberty of the individual."  

Kripalani never believed that the majority opinion is always right. He was very conscious of the fact that any system of government, democratic or totalitarian, may go wrong. He knew that even in a democratic form, a government may be autocratic, it may be highly centralized or corrupt. In such cases it would harm the liberty and freedom of the individual. Kripalani felt that in such cases the voice of conscience...

18. Ibid.
19. Ibid., p.18.
was of great importance. In the Gandhian tradition, Kripalani assigned supreme place to the conscience of the individual.

Kripalani has made three points clear:

1. "The law of conscience is supreme;

2. Civil disobedience can be offered, whatever the nature of the state, whether autocratic or democratic; and

3. Civil disobedience is constitutional action and, though apparently violating the law, is really the fulfilment of the law."^20

Kripalani argued that political freedom was an instrument to achieve socio-economic freedom. With Gandhiji he believed that social power should be totally unrestricted by violence and domination.

Kripalani had spent a considerable part of his life with Mahatma Gandhi and this has made him a true Gandhian. His deeply

believed in the Gandhian values of truth and non-violence, fearlessness, and self-reliance. He was forthright in telling unpleasant truths even to Mahatma Gandhi if there was a need for this. He was a rebel and a non-conformist as was shown by his family background. These qualities were greatly instrumental in his championing and defending the various rights of the individual.

Kripalani's contribution to democratic philosophy and institutions was indirect but nonetheless considerable inasmuch as he collaborated with other Gandhian leaders in evolving the system of basic education. The system of basic education was in line with the Gandhian values and the democratic values and attitudes. The institutions that were to promote basic education were typically the democratic institutions designed to foster democratic values of liberty, equality, brotherhood, compassion and tolerance.

According to Kripalani, "... if democracy is to be real and effective, not merely formal and institutional, it must be based on non-violence. And non-violence, if it is not a mere form or lip expression, must necessarily lead to democracy." 21

Kripalani believed that democracy and non-violence are closely related and the one cannot succeed without the other.

He believed deeply that unless political democracy is broad-based on some sort of economic equality, it ceases to have meaning. 22

Kripalani was an advocate of a free press. He was deeply disturbed when there was a rumour, in the early 1970s, that the press in India would be nationalised. Immediately he wrote an article on the subject and made it clear that democracy cannot function without a free press. If the functioning of the free press was compromised through political pressure, then democracy would turn into a dictatorship before long. 23 "There is something in Acharya Kripalani's way of writing and thinking which distinguishes him from others and those who know him can tell at once that a particular thing is from his pen." 24

Kripalani was always in favour of an independent judiciary in a democratic country like India. He said democracy can work only when its prescribed norms of conduct and the discipline are

22. Ibid.


24. Quoted in J.S.Bright, President Kripalani and His Ideas (Lahore: Indian Printing Works, 1947), p. 34.
observed. He suggested that all politicians and political parties that are interested in democracy must resist the temptation of a confrontation between the judiciary and the legislature or the executive.25

Kripalani favoured the institutions of parliamentary democracy, elections, political parties and opposition in the legislature. However, he was not in favour of second chambers. To him, the second chambers were not only expensive but were also harmful in several ways. He strongly felt that the second chambers in the states must be abolished as a measure of economy and efficiency in the working of democracy. But he spared the Rajya Sabha at the centre because of the federal character of the Indian Constitution.26

Acharya Kripalani thus played a role of tremendous importance in encouraging and building democratic philosophy and institutions of various kinds. His anti-communism was only half the story. He was completely opposed to the communist doctrine and practice with no doubt. At the same time, he was watchful in seeing to it that the communist ideas and tactics did not undermine the

democratic values and institutions including the legislatures and political parties. He would rather plead for the Gandhian values and institutions rather than the communist ones. Kripalani was a socialist, specially in the later years but this again is to be interpreted to mean that he was not an orthodox communist. His socialism was Indian socialism which was deeply influenced by the Gandhian values of liberty, equality and tolerance.

Apart from his opposition to the communist philosophy and practice, on the positive side, Kripalani contributed significantly to the development of democratic values and principles and traditions in course of his long and active life. Kripalani's contribution to the cause of fundamental rights or human rights as they are generally called today has been significant. Kripalani championed the cause of the poor and the down-trodden. As a member of the constituent assembly and later for a long time as a member of the parliament, he fought for the protection and preservation of the fundamental rights and he opposed consistently their erosion due to the various amendments which were moved from time to time. The fundamental rights in particular drew his attention because they had been weakened considerably due to the various amendments. Kripalani was a firm believer in the basic structure of the constitution and he argued that the basic structure cannot be compromised while amending some of the
articles of the constitution. In particular he pointed out that article 368 had no jurisdiction over the basic structure or the fundamental rights so carefully drafted and placed in the constitution by the framers. Kripalani was ever ready with his action of protest and demonstration, campaigning or speeches or writings in defence of the various democratic causes and institutions. With Mahatma Gandhi he believed that the law of conscience is above all laws and the individual has the basic right of civil disobedience whenever he disagreed with the power and policies of the state. According to him, civil disobedience or protest, far from taking away the loyalty of the individual to the state, strengthens his loyalty and fulfils the true nature of the state laws and policies.